IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI SOUTHWESTERN DIVISION

ROBERTA LYNN HANEY	7)		
and TERRY HANEY,)		
)		
	Plaintiffs,)		
)		
vs.)	Case No	
)		
DOGWOOD CANYON)		
FOUNDATION,)		
)		
	Defendant.)		

NOTICE OF REMOVAL

Please take notice that pursuant to 28 U.S.C. § 1441, et. seq., Defendant Dogwood Canyon Foundation removes this action to the United States District Court for the Western District of Missouri based upon the following grounds:

- 1. Plaintiffs filed their Petition in the Circuit Court of Greene County, Missouri (Case No. 2231-CC00507) on or about May 13, 2022, and the action is now pending in that court. Defendant accepted service of process on or about May 16, 2022.
- 2. This action is a civil action involving parties with diversity of citizenship for which this Court has original jurisdiction under 28 U.S.C. § 1332. Plaintiffs are residents of the State of Louisiana and defendant is a Missouri corporation. No change of citizenship of the parties has occurred, upon information and belief, since commencement of this action and complete diversity exists between plaintiffs and defendant.

- 3. This case involves an amount in controversy exceeding the excess of the jurisdictional limit set in the Circuit Court for the State of Missouri. Plaintiffs do not specify an amount of damages they are seeking in their Petition; however, a defendant may remove a suit to federal court notwithstanding the failure of a plaintiffs to plead a specific dollar amount in controversy. See e.g., Synergetics, Inc. v Hurst, 333 F.Supp.2d 841, 843 (E.D. Mo. 2004). Where, as here, a plaintiff alleges no specific amount of damages, a removing defendant may prove by a preponderance of the evidence that the amount in controversy exceeds the jurisdictional minimum. See In Re Minn. Mut. Life Ins. Co. Sales Practices Litig., 346 F.3d 830, 834 (8th Cir. 2003); accord Abrego v Dow Chemical Co., 443 F3d 676, 683 (9th Cir.2006). In determining the amount in controversy, a court may look beyond the complaint to determine whether the amount in controversy is met. See In Re Minn. Mut. Life Ins. Co. Sales Practices Litig., 346 F.3d at 834, see also Synergetics, Inc., 333 F. Supp.2d at 843. Here, plaintiffs have represented to the undersigned counsel that plaintiff Roberta Haney has significant injuries, including but not limited to a severely comminuted fracture of both her tibia and fibula resulting in what is referred to as a tibial pilon fracture and have demanded an amount significantly above the jurisdiction requirement.
- 4. All process, pleadings and other documents received by Defendant is attached. The Petition is attached hereto as Exhibit A and the Civil Cover Sheet is attached hereto as Exhibit B.
 - 5. The Notice of Removal is timely pursuant to 28 U.S.C. § 1446.
- 6. Based upon the foregoing, Defendant is entitled to remove this action from state court to the United States District Court for The Western District of Missouri pursuant to 28 U.S.C. § 1441.

Respectfully submitted,

KECK & PHILLIPS, LLC

By /s/ Patricia A. Keck

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Attorneys For Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was sent via email this 18th day of May, 2022 to:

Steve Garner Strong Garner Bauer, P.C. 415 E. Chestnut Expressway Springfield, MO 65802 Counsel for Plaintiffs

> /s/ Patricia A. Keck Patricia A. Keck